

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of Section 621(a)(1) of the Cable)	MB Docket No. 05-311
Communications Policy Act of 1984 as Amended)	
by the Cable Television Consumer Protection and)	
Competition Act of 1992)	

COMMENTS OF THE MIDDLEBOROUGH BOARD OF SELECTMEN

The Middleborough Board of Selectmen appreciates the opportunity to file comments on the Second Further Notice of Proposed Rulemaking ("FNPRM") in the above-referenced docket. We strongly oppose the tentative conclusions in the FNPRM that cable-related in-kind contributions are franchise fees and that local governments have no authority regarding cable operators' use of the rights of way to provide non-cable services.

The Town of Middleborough consists of 23,594 residents with approximately 8,200 Comcast and Verizon subscribers of cable services. The Town's current franchise agreement with Comcast expires on 9/26/20 and Verizon on 4/22/22. In 2010, the Town of Middleborough took control of the PEG access channels (3 channels) from Comcast and created MCCAM (Middleborough Community Cable Access Media) as a municipally run PEG Access department. We currently receive 2.5% in franchise fees from both Comcast and Verizon resulting in approximately \$270,000 a year. These fees are deposited into a restricted grant account that is only used for salaries, operating and other expenses related to PEG Access Programming operations, equipment and/or facilities including Town-owned I-Net operational support as it relates to PEG Access Programming and cable related legal fees as it relates to renewal or transfer of the cable franchise licenses.

Our community relies on the franchise fees to support PEG Access which in turn connects our Town to its residents. Our staff and contractors cover over 300 meetings (more than 18 boards and committees) and events in just Middleborough in addition our high school students create over 160 programs for our education channel! When the last franchise negotiation took place, the Permanent Cable Committee was very conservative in the percentage negotiated because they didn't want the passthrough costs from the Cable Franchises to have a detrimental effect on the subscribers. When PEG Access was taken over by the Town at that time, they were conservative in their planning for the future. Now that MCCAM has been established and is growing for the past 8 years, we are counting on the cable franchises to support our endeavors to keep the community informed and entertained and to keep them as cable customers. Using fair market value to determine the amount to be considered a franchise fee will lead to arbitrary deductions. And since the Issuing Authority has control over the 3 access channels and they are required to only have PEG programming, they can not be sold and therefore have no market value.

The FNPRM requests comment on "other requirements besides build-out obligations that are not specifically for the use or benefit of the LFA or an entity designated [by] the LFA and therefore should not be considered contributions to an LFA."¹ We support the tentative conclusion that build-out requirements are not franchise fees because they are not contributions to the franchising authority. The same reasoning should be applied to other cable-related contributions the Commission tentatively concludes are franchise fees. Franchise obligations such as PEG channels and local customer service obligations are more appropriately considered community benefits, not contributions to LFAs, and, like build-out obligations, should not be considered franchise fees. For example, our franchise agreement requires the cable operator to provide complimentary cable drops to all municipal buildings. We don't have drops at all our buildings in town but the ones that do, including the schools, library, police, fire and MCCAM office utilize them every day to stay informed and is highly beneficial for them.

¹ FNPRM ¶ 21.

MCCAM is currently expanding into a new facility that will be a community media center with a studio, meeting room, editing and podcasting areas and so much more. This is a need our community has been asking for for many years and we finally are able to do it. The town owned facility will host educational and training workshops, provide a space for meetings and editing, and storage for our extensive state of the art video production equipment that can be used by the Access Users in our community at no charge to them. MCCAM currently does not have an actual studio so this new facility will give Access Users a place to create and inform and to learn and share their views and opinions. Having this forum and a platform is essential to our community. We are currently negotiating our franchise agreement with Comcast and plan on asking for a higher percentage to assist us with this new community asset. If "in-kind" fees are taken from the franchise fees we will not be able to provide this to our residents.

After reviewing the proposed changes for FCC regulations concerning the town's fee structure and cable fees, we would like to voice our opposition to implementing the process of including in-kind services towards the fee collected from cable companies by MCCAM. This practice will vastly reduce the services MCCAM is able to contribute to the town.

Additionally, we would like to voice our opposition to changing the regulations for easements for small cells on utility poles. It is the Town's responsibility to maintain and install town poles and eliminating charges for said easement would unfairly shift the entire responsibility of maintaining the poles onto the town.

Respectfully submitted,

A handwritten signature in cursive script that reads "Leilani Dalpe" followed by a stylized flourish.

Leilani Dalpe, Chairman

MIDDLEBOROUGH BOARD OF SELECTMEN

November 8, 2018